

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS,
HOUSTON DIVISION**

UNITED STATES OF AMERICA	§	CRIMINAL NO.: 4:24-CR-00371-52
	§	
v	§	Honorable Lee H. Rosenthal
	§	
KATHERINE O'BRIEN (52)	§	

OPPOSED MOTION TO DISMISS COUNTS 45 and 46 OF THE INDICTMENT

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, Katerine O'Brien, the Defendant in the above styled and numbered cause, and respectfully moves the Court to dismiss Counts 45 and 46 of the indictment, and respectfully shows this Court as follows:

I.

Katerine O'Brien is charged in Counts 45 and 46 of a 53 count indictment with 53 defendants. She is alleged to have conspired with others to commit the offense of Conspiracy to Commit Wire Fraud and Wire Fraud in violation of 18 U.S.C. § 1349 and 1343.

II.

On November 20, 2024, defendant Eugene Walker (10), through his attorney, Joshua Lake, filed his Motion to Dismiss Counts 1 and 6 for failure to state an offense. Doc. 696. Count 1 alleges a conspiracy violating 18 U.S.C. §§ 1349 and 1343. Count 6 alleges a violation of 18 U.S.C. §§ 1349 and 2(a). Defendant Katerine O'Brien's counts 45 and 46 are nearly identical to Defendant Walker's counts 1 and 6, factually and legally. Therefore, counts 45 and 46 suffer the same defects as described in defendant Eugene Walker's Motion to Dismiss, i.e., the indictment alleges neither the existence of any victim nor any intended harm to money or property.

Defendant Walker's motion is well crafted, contains legal analysis, and does not appear to require additional legal briefing.

Additionally, several other co-defendants have filed similar motions to dismiss based on Defendant Walker's original motion. (See Docs. 706, 732, 733, 735, 737, 738, 739, 743, 744, 745, 746, 747, 750, 751, 754, 757, 759, 760, 761, and 762). The government filed a response to Walker's Motion to Dismiss. Doc. 724. Thereafter, Defendant Walker filed a reply to the government's response. Doc. 736. Finally, Defendant Mary Brown filed a supplement to her motion to dismiss. Doc. 741. Counsel for Defendant Katherine O'Brien incorporates the arguments and legal analysis of all similarly situated defendants in their motions to dismiss, replies, and supplements in so far as they may apply to her counts.

III.

Counsel for Defendant Katherine O'Brien conferred with counsel for Eugene Walker, and he has no objection to Ms. O'Brien adopting the arguments and legal basis stated in defendant Walker's Motion and Reply. Counsel did not personally confer with each other counsel filing motions to dismiss or adopting Defendant Walker's motion as it is clear from a review of each filing that Defendants are essentially making the same arguments and analysis related to the dismissal of counts in the indictment.

IV.

WHEREFORE, PREMISES CONSIDERED, Katherine O'Brien prays that she be allowed to adopt the legal reasoning stated in Defendant Walker's motion to dismiss and all other motions, replies, and supplements cited herein as far as they apply to Ms. O'Brien's case and that the Court enter an order dismissing Counts 45 and 46.

Respectfully Submitted,

/s/ Nicole DeBorde Hochglaube
NICOLE DEBORDE HOCHGLAUBE
Federal ID. No. 16839
Texas Bar No. 00787344
3515 Fannin Street
Houston, Texas 77004
Telephone: (713) 526-6300
Email: Nicole@houstoncriminaldefense.com

Attorney for Defendant,
KATHERINE O'BRIEN

CERTIFICATE OF CONFERENCE

I hereby certify that I have spoken with AUSA Michael Day previously regarding this particular motion, and he indicated he would be OPPOSED to the dismissal of counts 45 and 46. I further certify that I have spoken with Joshua Lake for Defendant Walker and he is unopposed to our adoption of his motion.

/s/ Nicole DeBorde Hochglaube
NICOLE DEBORDE HOCHGLAUBE

CERTIFICATE OF SERVICE

I hereby certify that on May 21, 2025, a true and correct copy of the above **OPPOSED MOTION TO DISMISS COUNTS 45 and 46 OF THE INDICTMENT** was forwarded to all counsel of record via ECF or by electronic mail from the Clerk of the Court.

/s/ Nicole DeBorde Hochglaube
NICOLE DEBORDE HOCHGLAUBE